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Client Alert: State of Ohio Announces Emergency Rules Requiring Department of Behavioral Health Certification for Recovery Housing Residences

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On August 10, 2026, Governor Mike DeWine signed **Executive Order 2026-03D**, which gives the Ohio Department of Behavioral Health (DBH) the power to certify recovery housing operators in Ohio. In justifying the Executive Order, DeWine cited the “rapid growth” of the recovery housing industry and need to combat fraud, waste, and abuse in the industry.

Under the order, DBH has the authority to receive complaints, investigate operations, and refer any potential cases of fraud, waste, and abuse to the Ohio Attorney General’s Office. The order also permits DBH to publish emergency rules to take immediate effect, bypassing the normal rulemaking process. The rules will be in effect for up to 120 days (until December 9, 2026), giving DBH time to draft and finalize permanent rules.

It is not clear from these rules whether existing operators that have already been approved by Ohio Recovery Housing or Oxford House must now become certified by DBH and, if so, when that must happen.

A summary of the emergency rules is below.

Rule Number	Name	Summary
OAC 5122-31-02	Registration Form	Requires every operator of a recovery housing residence to file a recovery housing residence registration form using DBH’s prescribed form.

OAC 5122-31-03	Certification application and procedures	Requires anyone seeking to operate a recovery housing residence to file on DBH's form a notice of intent to operate a recovery housing residence before submitting an application for initial certification or renewal certification. • The notice must be completed at least 90 days prior to the expiration date of the operator's current certification. • If DBH does not receive a complete application for renewal by the date the operator's certification expires, the operator cannot receive new residents until full certification is issued. • An operator seeking renewal is also subject to an onsite inspection to determine if the recovery housing residence continues to comply with DBH requirements. Also, if DBH provides an applicant for renewal with a written statement citing areas of non-compliance or a written statement citing deficiencies observed during an on-site survey, the applicant is prohibited from receiving new residents until renewal certification is issued.
OAC 5122-31-04	Issuance and conditions on certifications; denial, revocation, and termination of certification	Requires DBH to issue full certification to a recovery housing residence that complies with its certification standards. Full certification is valid for two years from the date of issuance Permits DBH to revoke certification or deny the issuance of any initial or renewal certification of a recovery housing residence. Requires that all residents of a recovery housing residence be immediately notified in writing by the residence's operator if the residence loses certification and/or requires the residents to be moved to another recovery housing residence. • If a resident receiving such notice is receiving DBH certified services or support, the operator must notify the resident's community behavioral health services providers and the appropriate board about the loss of recovery housing certification and/or movement. • If a resident receiving such notice is involved in the criminal justice system, the operator must notify the appropriate court about the loss of recovery housing certification or movement.
OAC 5122-31-05	Uncertified recovery housing residences	Permits DBH to investigate any residence or other structure that has been reported to DBH or that DBH has reason to believe is violating its rules. When conducting any investigation, permits DBH to have full access to all areas of the residence or other structure, as well as to all persons, records, and documents to determine if the residence or other structure is a recovery housing residence subject to certification.

OAC 5122-31-07	Maximum resident and household capacity	Gives DBH sole discretion to determine the maximum number of residents and maximum number of household members for which each recovery housing residence will be certified. The maximum number of residents will be stated on the certification issued to the residence. Requires the recovery housing residence to notify DBH, in writing, prior to allowing any additional individuals to reside in the residence for more than 48 hours if the residence will exceed the maximum number of household members identified on the certification. Requires recovery housing residences to comply with all inspections required by DBH, which fall into two categories: (1) inspections within 12 months of the date of a previous inspection and (2) other inspections. Inspections within 12 months of the date of the previous inspection include: • A fire inspection by a certified fire authority, the state fire marshal, or a township, municipal, or other legally constituted fire department approved by the chief of the division of state fire marshal of the department of commerce; and • A water supply and sewage disposal system inspection by the local health department. Other inspections include:
OAC 5122-31-09	Inspections	• A current food service license (depending on whether the residence supplies food); • An inspection of electrical wiring by a licensed electrical inspector. In addition, another such inspection is to be obtained any time alterations or additions to the electrical wiring are made; • An inspection of the residence's heating/cooling system by a licensed heating contractor. In addition, another such inspection is to be obtained any time alterations or additions to the heating/cooling system are made; • An elevator inspection (if applicable); • A boiler inspection; and • Any other inspection that is mandated by a local authority or that DBH determines necessary when DBH has a reasonable concern about the condition of the residence.
OAC 5122-31-10	Safety	Requires all recovery housing residences to meet all the safety requirements set forth in this rule. <i>*There are numerous requirements, and we recommend a particularly close review of this rule.</i>
OAC 5122-31-11	Nutrition and food safety	Requires all recovery housing residences to meet all the nutrition and food safety requirements set forth in this rule. <i>*There are numerous requirements, and we recommend a particularly close review of this rule.</i>

OAC 5122-31-12	Sleeping and living space	Requires all recovery housing residences to have a minimum of 70 square feet per resident for a single occupancy bedroom and a minimum of 50 square feet per resident for a multiple occupancy bedroom. Regardless of the availability of the square footage, prohibits more than four residents from sharing a bedroom in a recovery housing residence. <i>*The rule also sets forth numerous requirements about specific rooms and spaces in the residence. We recommend a particularly close review of this rule.</i>
OAC 5122-31-13	Housekeeping and property maintenance	Requires all recovery housing residences to meet all the housekeeping and property maintenance requirements of this rule. <i>*There are numerous requirements, and we recommend a particularly close review of this rule.</i>
OAC 5122-31-14	Incident notification and risk management	Requires all recovery housing residences to have a policy concerning reporting of reportable incidents to DBH. The policy must meet the requirements in this rule. In addition, requires the residence to develop an incident reporting system that includes a mechanism for the residence's review and analysis of reportable incidents. • Requires each recovery housing residence to submit a report to DBH regarding each occurrence of a reportable incident. Permits DBH to initiate follow-up and further investigation of a reportable incident and to request a follow-up and further investigation by the residence itself, the board of residence, any law enforcement agency, or any professional licensing or regulatory agency.
OAC 5122-31-15	Requirements for persons with disabling conditions	Requires each recovery housing residence in which one or more of the residents has a physical disability to make reasonable accommodations, including: • Making the recovery housing residence readily accessible to and usable by persons with a physical disability; and • Providing all communications to residents in a manner that is accessible and understandable to them (use of readers, interpreters, braille, large print, or providing appropriate telecommunication relay services, etc.).

OAC 5122-31-16	Administration and management	Requires all recovery housing residences to ensure appropriate policies and procedures regarding (1) the administration and management of the recovery housing residence and (2) compliance with the requirements for certification. <i>*This rule lists the 10 responsibilities that the person managing the recovery housing residence must meet.</i> Permits a recovery housing residence operator to delegate their responsibilities for the administration and management of the recovery housing residence to a specific person(s) who will be authorized in writing to implement the operator's responsibilities and sign necessary and appropriate documents for the operator. Requires the recovery housing residence to have proof of ownership of the residence or a signed agreement from the recovery housing residence owner indicating that the owner permits the use of the residence as a recovery housing residence. Prohibits the utility services, including cable and internet, for the recovery housing residence from being in the name of the residents. If any utility service account for the recovery housing residence is 30 days (or more) past due, the recovery housing residence receives a past due notice or disconnection notice, or utility service is disconnected, the operator is required to notify DBH within one business day. <i>*This rule sets forth DBH requirements for each operator and staff member working in the recovery housing residence.</i> Requires all staff monitoring self-administration of medication to be trained in accordance with this rule and to receive training from a registered nurse, physician, or other DBH-approved entity. Requires each staff member in contact with residents to be trained in accordance with this rule.
OAC 5122-31-17	Qualifications of operator and staff	Requires staff members to have written evidence of successfully completed prior training or to successfully complete training within 30 days of employment. Requires untrained staff who are within the first 30 days of employment or who have not completed all training to only work directly with trained staff. Requires all owners and operators to complete at least six hours of continuing education relevant to business acumen and ethics during each certification period. Prohibits clinical services from being provided in the recovery housing residence.

OAC 5122-31-18	Staffing requirements	Requires recovery housing residences to meet the staffing requirements in this rule. <i>*There are numerous requirements, and we recommend a particularly close review of this rule.</i> Requires the recovery housing residence to have at least one staff member available on or off the premises to residents 24 hours per day. Requires the operator to establish a schedule for staff coverage that includes coverage during vacations, emergency situations, and long-term absences due to illness. Permits DBH to consider violations of resident rights as sufficient cause to institute proceedings to deny or revoke the recovery housing residence's certification. Requires all recovery housing residences to have all of the following: • A written resident rights policy that lists all 31 resident rights identified in this rule; • A written resident grievance procedure that residents can understand and which allows for reasonable accommodation for residents with disabilities; and • A policy for maintaining for at least three years from resolution records of resident grievances.
OAC 5122-31-19	Resident rights and grievance procedure	Requires the resident rights policy, the grievance procedure, and the name of the resident rights advocate to be posted in a conspicuous location that is accessible to all residents. Requires that all staff be trained on and follow the resident rights policy and resident grievance procedure. Requires documentation in each employee, contract staff, volunteer, and student intern's personnel file that each has received a copy of the resident rights policy and the resident grievance procedure and has agreed to abide by them. Requires the recovery housing residence's procedures to resolve grievances to match the timelines and procedures set forth in this rule. <i>*This rule sets forth DBH requirements for staff and resident records and safety documentation that the recovery housing residence is required to maintain.</i>
OAC 5122-31-20	Facility records	Requires the recovery housing residence to maintain for three years following the termination of a resident's lease or termination of an employee's employment a record for each current resident and staff. Requires each resident's record to be stored in a locked area accessible only to staff. Prohibits operators or staff from disclosing or knowingly allowing the disclosure of any resident information to persons not directly involved in the resident's care and treatment without authorization from the resident or a signed release of information if required, unless otherwise permitted by law.

OAC 5122-31-21	Resident Agreement	Requires each resident, prior to residing at the home, to enter into a written resident agreement with the residence's operator. The resident agreement must comply with all requirements set forth in the rule.
OAC 5122-31-22	Medication record and storage	Requires staff to keep as part of the resident record the medication administration record for the resident that meets requirements set forth in the rule. Prohibits residence in the recovery housing residence from being contingent upon taking medications. Requires that residents be encouraged to participate in recovery supports, community activities, and social events.
OAC 5122-31-23	Recovery supports	Requires recovery housing residence staff to demonstrate a reasonable effort to facilitate and support such involvement and provide transportation or information about the accessibility of transportation. Requires the operator's staffing plan to account for time for staff to participate in and facilitate social and recreational activities with residents.

OAC 5122-31-24

Background assessment

Requires recovery housing residences to establish procedures for conducting background assessments for owners, operators, prospective operators, managers, staff, volunteers, students, interns, and other individuals employed by or seeking employment by a recovery housing residence.

For any job applicant, a recovery housing residence is required to:

- Require an applicant to complete an employment application and provide the names and addresses of present and former employers;
- Attempt to obtain references from the applicant's present and former employers and maintain written evidence that reference checks were attempted and/or completed; and
- Check each of the databases listed in this rule.

** This rule lists offenses that disqualify people from working in a recovery housing residence. This rule also lists exceptions to the disqualifying offenses such that the person can be employed by a recovery housing residence.*

Prior to employing any applicant, a recovery housing residence must require an applicant to do both of the following:

- Submit a statement to the recovery housing residence owner or operator with the applicant's signature attesting that they have not been convicted of or pleaded guilty to a disqualifying offense; and
- Sign an agreement under which the applicant agrees to notify the recovery housing residence owner or operator within 14 calendar days if, while employed by the recovery housing residence, the applicant is formally charged with, is convicted of, or pleads guilty to a disqualifying offense. The agreement must state that failure to make the notification will result in termination of the applicant's employment.

If you have any questions or would like more information about the emergency rules for recovery housing residences, please contact Daphne Kackloudis or Jordan Burdick.